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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,054	03/02/2004	Dardo Bonaparte Lujan	ALUJA.0102CIP	2861
7590	12/09/2005		EXAMINER	
David W. Carstens Carstens Yee & Cahoon, LLP Suite 900 13760 Noel Road Dallas, TX 75240			CHAMBERS, TROY	
			ART UNIT	PAPER NUMBER
			3641	
DATE MAILED: 12/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/791,054	LUJAN, DARDO BONAPARTE
	Examiner	Art Unit
	Troy Chambers	3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on \_\_\_\_.
- 2a)  This action is **FINAL**.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,8-11,13,14,17,18,21-24,26 and 31-34 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_ is/are allowed.
- 6)  Claim(s) 1,2,5-7,12,15,16,19,20,25 and 27-30 is/are rejected.
- 7)  Claim(s) \_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 02 March 2004 is/are: a)  accepted or b)  objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a)  All    b)  Some \* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_.
- 4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_.

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election with traverse of Species E in the reply filed on 10/03/05 is acknowledged. The traversal is on the ground(s) that the various species is not patentably distinct over one another. This argument would be found persuasive if the applicant admits on record that the various species are obvious variants of one another. Until that time, the restrictions requirement will remain for posing and undue burden upon the examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 8-11, 13, 21-24, and 26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. In addition to the claims voluntarily withdrawn by the applicant, the Examiner further withdraws claims 3, 4, 14, 17, 18 and 31-34 as being drawn to a non-elected species. Upon further review of these claims, it is clear that the subject matter claimed therein is described in other species not elected by the applicant. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/03/05.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "at least one projectile stopping panel" (claims 15, 16), "the impact cushioning panel" (claim 28), the

projectile-stopping panel comprising loosely-entangled fibers (claim 29) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. Specifically, claim 5 recites, "wherein the pieces form part of at least one high-tensile strength fabric *out into said pieces.*" (Emphasis added). It is not clear what the latter part of this claim sentence is supposed to mean and appears to be a typographical error. In view of this indefinite language, the Examiner will interpret the claim as requiring pieces that are part of a high-strength fabric.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 2, 5, 12, 15, 16, 27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6718861 issued to Anderson et al. (hereinafter "Anderson").

8. With respect to claim 1, Anderson discloses a ballistic panel 120 for providing ballistic protection comprising: a plurality of deformable pieces 140 that are arranged side-by-side and detachable as shown in Figs. 2 and 6A-6D.

9. With respect to claim 2, refer to Figs. 6A-6D.

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10. With respect to claim 5, Anderson discloses a ballistic panel comprising deformable pieces 140 and a high-tensile strength fabric 130.

11. With respect to claim 12, Anderson discloses deformable pieces comprising metals (col. 5, lines 16-17). Applicant's use of the phrase "comprising" in the attempted Markush group does not operate to exclude other materials.

12. With respect to claim 15, Anderson discloses a ballistic panel comprising a plurality of deformable pieces 140 that are detachably retained in said panel, and at least one projectile stopping panel 130.

13. With respect to claim 16, Anderson discloses a ballistic panel having a front side comprising a panel 110 and a rear side comprising a panel 130.

14. With respect to claim 25, Anderson discloses deformable pieces comprising metals (col. 5, lines 16-17). Applicant's use of the phrase "comprising" in the attempted Markush group does not operate to exclude other materials.

15. With respect to claim 27, refer to Fig. 1.

16. With respect to claim 28, refer to col. 5, ll. 23-26, which discloses an absorbing layer that can include a plurality of layers.

17. Claims 1, 5, 6, 7, 15, 16, 19, 20, 27, 28, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2723214 issued to Meyer.

18. With respect to claim 1, Meyer discloses a ballistic panel comprising a plurality of deformable pieces 7 arranged side-by-side and detachably retained as seen in Figs. 1 and 3.

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19. With respect to claims 5 and 6, the pieces 7 comprise glass fabric (col. 2, ll. 8-12) and form a plurality of layers that are offset from one another as shown in Figs. 5 and 6.

20. With respect to claim 7, Meyer discloses deformable pieces comprising glass fibers as discussed above.

21. With respect to claim 15, Meyer discloses a panel comprising side-by-side deformable pieces that are detachably retained and at least one projectile stopping panel 2', 4', 6' as shown in Fig. 3.

22. With respect to claim 16, refer to Fig. 3 of Meyer.

23. With respect to claim 19, Meyer discloses a panel 1 included glass fiber pieces that are detachably retained.

24. With respect to claim 20, refer to Fig. 6 of Meyer.

25. With respect to claim 27, refer to Fig. 3.

26. With respect to claim 28, Meyer discloses an impact cushioning panel 2'-6'.

27. With respect to claim 29 and 30, Meyer discloses detachably connected impact pieces 7 that are comprised of glass fibers. It is not known what applicant means by "loosely-entangled".

### ***Conclusion***

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on form PTO-892 are cited as of interest to show similar

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-

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6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6873.

Troy Chambers, Examiner

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A handwritten signature in black ink, appearing to read "Troy Chambers".